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Honorable Richardo Martinez

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

MARCUS MUKAI, *et al.*,)
Plaintiffs,)
v.)
JAY FUHR, *et al.*,)
Defendants.)

) CASE NO. C04-1446RSM
PROTECTIVE ORDER

IT IS HEREBY ORDERED, that any and all information and documents produced or to be produced by any party pursuant to any Interrogatory, Request for Production and/or Request for Admission served by any other party, or testimony, by way of deposition, interrogatory or at trial for which any party asserts a claim of proprietary, personal, confidential, trade secret or other claim of confidential personal or commercial information shall be subject to this Protective Order. The information, documents and testimony are referred to as “Protected Documents” and “Protected Testimony” as is defined herein and shall be maintained in a confidential manner under the procedures set forth herein. This Protective Order does not apply to any information legitimately obtained by any party by means other than discovery in this case.

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PROTECTIVE ORDER-1

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- 2 1. The term "Protected Document" as used herein shall mean any document
3 produced during discovery or at trial of this action which is of a proprietary,
4 personal, confidential, trade secret, or of a commercially and/or competitively
5 sensitive nature and is designated at the time of production by the producing party
6 to be a "Protected Document". A "Protected Document" shall continue to be a
7 "Protected Document" unless any party shall object within 30 days to the
8 designation of the document as protected. Upon receipt of the objection, the party
9 designating the document as protected shall have 60 days to obtain *in camera*
10 review to continue the protection afforded by this Order or the protection shall be
11 lost.
- 12 2. The term "Protected Testimony" as used herein shall mean any testimony given by
13 way of deposition, interrogatory or at trial of this action which is of a proprietary,
14 personal, confidential, trade secret or of a commercially and/or competitively
15 sensitive nature and is designated at the time the testimony is given and designated
16 by the testifying party to be "Protected Testimony". "Protected Testimony" shall
17 continue to be "Protected Testimony" in the same manner as protected documents
18 as set forth in paragraph 1.
- 19 3. Without further order of the Court the parties may show "Protected Documents"
20 and "Protected Testimony", and may disclose the contents of such materials only
21 to the following persons ("Qualified Persons").
 - 22 A) The parties and counsel of record for parties to this action;
 - 23 B) Regular employees of counsel of record for parties to this action;
 - 24 C) Experts, including all consulting and potential trial experts, to the
25 extent necessary for preparation of an opinion or testimony by that expert,
26 subject to all of the terms and conditions of this Order, provided, such
27 consultants and/or testifying experts shall execute an "Agreement to be
28 bound by Protective Order".
 - 29 D) Litigation witnesses, provided however, that such witness shall first sign
30 the attached "Agreement to be bound by Protective Order", and further
31 provided that no disclosure shall be made to any person employed by any
32 competitor of the party producing the "protected Document" or the
33 "Protected Testimony" except upon further order of the Court.
 - 34 E) The Court.

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4. Every "Protected Document" copied and produced shall be clearly marked as follows:

Production Document Mukai v. Fuhr
United States District Court Case No. 04-1446RSM
SUBJECT TO PROTECTIVE ORDER

and shall remain at all times under the custody of counsel for the party or parties obtaining such document(s), or their retained experts only.

5. Within thirty (30) days after the conclusion of this litigation, including appeals, either by compromise settlement, stipulated dismissal, entry of judgment or conclusion of appeals, whichever event shall first occur, copies of all “Protected Documents”, “Protected Testimony” or other materials subject to this Protective Order shall be returned by the party who sought production and shall be returned to counsel for the producing or testifying party.

6. No requesting or receiving party, their counsel or expert shall under any circumstance sell, offer to sell, advertise or otherwise publicize either the contents of the “Protected Documents” or “Protected Testimony” or the fact that the requesting and/or receiving party has obtained confidential and/or privileged documents from the producing or testifying party.

7. This Order shall be binding upon the parties, the experts (whether consulting or testifying) and their attorneys and upon their successors, executors, personal representatives, administrators, heirs, employees and assigns.

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8. Upon termination of this litigation, including any appeals, the provisions of this Order shall remain in effect and shall be binding except with respect to those matters, whether documentary or testimonial, which have become a matter of public record. This Court retains and shall have jurisdiction over the parties and recipients of the “Protected Documents” or “Protected Testimony” for enforcement of the provisions of this Protective Order following termination of the litigation.

DONE IN OPEN COURT this 17th day of June, 2005.

/s/ Ricardo S. Martinez
RICARDO MARTINEZ
UNITED STATES DISTRICT JUDGE

Presented by:
Thomas R. Buchmeier, P.S.

By /s/Thomas R. Buchmeier
Thomas R. Buchmeier, WSBA 5557
Attorney for Defendants A.G.Design
and Herrington

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PROTECTIVE ORDER-4

1 CopyReceived and Approved for Entry;
2 Notice of Presentation Waived:
3 Alex Modelski

4 By /S/ Alex Modelski
5 Alex Modelski, WSBA 28646
6 Attorney for Plaintiffs

7 Copy Received and Approved for Entry;
8 Notice of Presentation Waived:
9 Harrell, Connell, Hunter, Pauley & Gautschi, PLLC

10 By /S/ Timothy J. Pauley
11 Timothy J. Pauley, WSBA 18583
12 Attorney for Marcus Mukai

13 Copy Received and Approved for Entry;
14 Notice of Presentation Waived:

15 /S/ Richard A. Cook

16 _____
17 Richard A. Cook
18 Defendant, *pro se*

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28 PROTECTIVE ORDER-5

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